THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.26137of 1997

Dated 06-03-2007

Between:
The Depot Manager, APSRSTC, Nizamabad District.

..... PETITIONER

AND

Sadiq Miya & another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.26137of 1997

O R D E R:

Aggrieved by the award of the Labour Court-II, Hyderabad in I.D.No.148 of 1993 dated 06-07-1996, in directing reinstatement of the first respondent into service with all attendant benefits such as continuity of service and payment of backwages to an extent of 50%, the present writ petition is filed.

The charges levelled against the first respondent were as under:

1. For having failed to follow the instructions of Dy. Supdt (M) and not loaded the old springs in the DGT on 26-10-1992 at 16.25 hrs. and argued with the Supervisor stating that '**Kya Saab hum pachas kam Karna Kya, Hum Karthey Nahi**' in the presence of Sri Enthe Sham Sli, Trimmer of Banswada depot, which constitutes misconduct in terms of Regulation 28(vii) of APSRTC Employees (Conduct) Regulations, 1963.
2. For having absconded from duty from 12.00 hrs. to 15.30 hrs on 28-10-1992, due to which work allotted to you was held up, which constitutes misconduct in terms of Regulation 28(vii) of APSRTC Employees (Conduct) Regulations, 1963.
3. For having failed to complete the work allotted by Sri Hanmandlu, Mechanic on 30-10-1992, which constitutes misconduct in terms of Regulation 28(vii) of APSRTC Employees (Conduct) Regulations, 1963.

On the charges having been established, the first respondent was removed from service. Aggrieved thereby, he invoked the jurisdiction of the Labour Court under Section 2-A(2) of the Industrial Disputes Act (for short 'the Act'). While holding that the charges were held established, the Labour Court examined the quantum of punishment, in exercise of its jurisdiction under Section 11-A of the Act, and directed reinstatement of the first respondent into service with all attendant benefits such as continuity

of service but with 50% backwages. The punishment of removal, was, in effect, substituted by the Labour Court by denying 50% of the backwages to the first respondent-workman.

Sri V.T.M.Prasad, learned standing counsel for the petitioner-Corporation, would submit that if the punishment imposed by the Corporation, for acts of insubordination or disobedience, are interfered with by the Labour Court it would result in further indiscipline in the organization and make it even more difficult to extract work from the employees concerned. Learned counsel would submit that not only the words used by the first respondent were harsh, the tone in which these words were used was also a factor which was taken into consideration by the competent authorities to impose the punishment of removal from service. Learned counsel would submit that all the three charges levelled against the first respondent were held established and that the Labour Court had shown misplaced sympathy in interfering with the award of the Labour Court.

It must be taken note of that the charges held established against the first respondent are not of corruption. The first charge is of insubordination. The words said to have been used by the first respondent, when translated in English, is that he had informed his Supervisor:

> "Sir, are we to do 50 jobs at the same time? Do we not do work?

These words, by no stretch of imagination, can be said to be abusive or as amounting to insubordination, nor would it necessitate the workman being removed from service. The other charges are for his abstaining from duty for 3½ hours and having failed to complete the work allotted to him on 30-10-1992. While holding that the charges were held established the Labour Court considered it

appropriate to deny 50% of the backwages to the first respondent-workman. It cannot be said that exercise of jurisdiction by the Labour Court, under Section 11-A of the Act, is on grounds of misplaced sympathy.

It is well to remember that this Court, in certiorari proceedings under Article 226 of the Constitution of India, would not sit in appeal over the discretion exercised by the Labour Court, under Section 11-A of the Act, in substituting the penalty imposed by the employer by another. It is only when the punishment, as substituted by the Labour Court, is one which shocks the conscience of this Court or is one which could not have been imposed at all, would this Court interfere in the matter.

In the present case, it cannot be said that for the charges held established, the punishment substituted by the Labour Court of denial of 50% backwages is a punishment which shocks the conscience of the Court or is one which could not have been imposed at all. The award of the Labour Court does not necessitate interference.

The Writ Petition fails and is accordingly dismissed. No costs.

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06-03-2007

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